

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1003 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA

Versus

K. PATEL & CO

Appearance:

MR JD AJMERA for Applicant

None present for Opponent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 18/11/97

ORAL JUDGEMENT

1. The matter was called out for hearing in the first round then in the second round and lastly in the third round but none put appearance for the opponent. Heard the learned counsel for the applicant and perused the application.

2. Challenge has been made by this revision application by the applicant to the order of the

Assistant Judge, at Jamnagar passed in Civil Miscellaneous Appeal No. 179/84 confirming thereunder the ad interim injunction granted by the learned 3rd Jt. Civil Judge, (S.D.) Jamnagar directing the applicant to restore the telephone connection of the plaintiff-opponent on depositing Rs.1500/- by it towards the disputed bill. The disputed bill was of Rs.3405/-.

3. One of the contentions raised by the learned counsel for the applicant is that the suit itself is not maintainable as the jurisdiction of the civil court is ousted under the provisions of section 7-B of the Indian Telegraph Act, 1885. In support of this contention, the learned counsel for the applicant placed reliance on the decision of this Court in the case of Govindbhai P. Chovatia vs. Gujarat Telecom Circle reported in 1995 (2) GLH 1041. This Court has held that due to the existence of section 7-B even the jurisdiction of Civil Courts under section 9 of the C.P.C., would be regarded as impliedly ousted and the civil suit challenging the correctness of the bills so raised would not be maintainable in a Civil Court. It is also a case where the plaintiff-opponent herein is challenging the correctness of the bill of telephone given to him. The Civil Court has no jurisdiction in the matter and as such the order passed by the court below granting the temporary injunction in favour of the plaintiff-opponent is without jurisdiction.

4. In the result, this civil revision application is allowed and the order of the Assistant Judge, Jamnagar dated 11-12-1984 passed in Civil Miscellaneous Appeal No.179/84 and of the 3rd Jt. Civil Judge (S.D.)Jamnagar below Ex.6 in Regular Civil Suit No.1152/94 dated 15-11-1984 are quashed and set aside. The Regular Civil Suit No.1152 of 1994 is ordered to be dismissed as not maintainable. However, the dismissal of the suit will not come in the way of the plaintiff-respondent to take up the matter in arbitration. No order as to costs.

zgs/-